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CONSTITUTIONAL LAW—DUE PROCESS OF LAW—FORFEITURE BY GAME WARDEN WITHOUT GIVING OWNER OPPORTUNITY FOR HEARING UNCONSTITUTIONAL—QUAERE: IS SECTION 2070B, CLAUSES 5 & 6, CONSTITUTIONAL AS TO FORFEITURE?—A statute authorizing game wardens to seize and forfeit to the state summarily, without affording the owner thereof opportunity for a hearing, all guns, ammunition, decoys, fishing-tackle, etc., in actual use by persons hunting in violation of the game law, is held, in *McConnell v. McKillip* (Neb), 65 L. R. A. 610, to be void as depriving the owner of his property without due process of law.

See note 10 Va. Law. Reg. 742 (December number), where it is claimed that a similar provision of the Virginia fish laws is unconstitutional.

Sec. 2070b(5) Va. Code Anno., authorizes any court, judge or justice having jurisdiction of the offense, if satisfied upon affidavit that there is reasonable cause to believe that game, song-birds, etc., taken or killed contrary to the laws of this state, or of the United States, are being concealed, may issue a search-warrant therefor; and sec. 2070b(6) provides that all guns, gunning or hunting appliances found in such search shall be seized by such warden or other officer, and held subject to the payment of the fine prescribed by law for the offense charged, and the cost of prosecution; and all such articles shall be sold at public auction, after the lapse of twenty days from the time of seizure, after such notice as the court, etc., may prescribe, unless the reputed owner appears and acquits himself of the charge or pay the fine imposed. Quaere: Is this proceeding due process of law? C. B. G.

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CONSTITUTIONAL LAW—DUE PROCESS OF LAW—SEIZURE OF GAMING TABLES.—A statute authorizing the seizure and withholding of gaming tables or other instruments of gaming until after the trial of the owner on a charge of using them for gambling purposes is held, in *Woods v. Cottrell* (W. Va.), 65 L. R. A. 616, not to be unconstitutional as depriving a person of his property without due process of law.

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DIVINE HEALING FRAUDULENT—NOT PROTECTED BY LAWS AGAINST LIBEL.—The business of pretending to heal absent patients by supernatural powers without medicine or surgery is held, in *Weltmer v. Bishop* (Mo.), 65 L. R. A. 584, to be fraudulent, and not protected by the law against libel, although many persons claimed to have been benefited by the treatment.

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TELEGRAPH COMPANIES—LIABILITY FOR MENTAL ANGUISH—SEC. 1294i (10) VA. CODE ANNO.—The right to recover damages for mental suffering for failure to deliver telegram, although not accompanied by physical suffering or injury, is sustained in *Barnes v. Western U. Teleg. Co.* (Nev.), 65 L. R. A. 666.

Under Acts 1899-1900, p. 724, substantially the same as sec. 1294i (10) Va. Code Anno., a different rule was laid down, in *Connelly v. Western U. Teleg. Co.*, 100 Va. 51, 40 S. E. 618, 56 L. R. A. 663, 93 Am. St. Rep. 919, where it was held that damages for mental suffering, independent of any injury to person or estate, cannot be recovered against a telegraph company for negligent failure to deliver a message as promptly as practicable, although the company is advised

of the character of the message. See editorial note, 7 Va. Law Reg. 225. See also 3 Va. Law Reg. 222. For full treatment of the subject of Mental Anguish, see 10 Va. Law Reg. 594 (November number). C. B. G.

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WHERE SUIT IS TO BE COMMENCED—CONTRACT BY TELEPHONE—SEC. 3215 VA. CODE ANNO.—An agreement by a resident of one county, in response to a telephone call from a person residing in another county, that he would honor a draft for the amount in case the latter should advance money to a third person, is held, in *Bank of Yolo v. Sperry Flour Co.* (Cal.), 65 L. R. A. 90, to be made in the former, within the meaning of a constitutional provision that actions on contracts may be brought in the county where they are made. Compare sec. 3215 Va. Code Anno. and see notes thereto.

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JOINT RESOLUTIONS OF THE GENERAL ASSEMBLY—EFFECT THEREOF—CAN PUBLIC SCHOOL BOARDS BE COMPELLED TO OBSERVE JUNE 3D, JEFFERSON DAVIS' BIRTHDAY?—ACTS 1899-1900, p. 1374.—By a joint resolution of the general assembly, Acts 1899-1900, p. 1374, it was resolved, "as a mark of perpetual respect and remembrance of Jefferson Davis and of the distinguished services rendered by him, that the third day of June in each year be, and the same is, hereby set apart as a day of recreation in the public schools of the commonwealth, and that the public offices of the state be closed after twelve o'clock meridian of each recurrence of the said day, and that the flag of the state be hoisted over the capitol building." This joint resolution was approved by the governor, March 7, 1900, and the question has been raised whether it has the force and effect of law; or, to state the proposition in general terms, has a joint resolution, which received the assent of both houses, and was approved by the governor, before the Constitution of 1902 went into effect, the force and effect of law, and may its observance, in a proper case, be compelled by mandamus?

Under the Constitution of 1902, a joint resolution, in the ordinary acceptance of that term, would not have the effect of a law; for sec. 50 of that instrument provides: "No law shall be enacted except by bill"; and provides further that no bill shall become a law, unless, prior to its passage, it has been referred to a committee, considered thereby and reported in each house, printed, read three times and passed by a ye and nay vote, recorded in the journal, which shall include at least two-fifths of the members elected to each house voting in the affirmative. Whether a joint resolution, which takes the course here prescribed for a bill and is approved by the governor, can have the effect of a law under our new constitution, is a doubtful question which it is not the purpose of this note to solve. But under the Constitution of 1869, it seems clear that a joint resolution, regularly passed by both houses and approved by the governor, has the same effect as a bill so passed and approved. Art. 5, cl. 9, Cons. 1869, provides: "Bills and resolutions may originate in either of the two houses of the general assembly, to be approved or rejected by either, and may be amended by either house, with the consent of the other"; and art. 4, cl. 8, provides: "Every bill which shall have passed the Senate and House of Delegates, and every resolution requiring the assent of both branches of the general assembly, shall, before